1	Steven C. Gonzalez, Bar No. 191756 sgonzalez@perkinscoie.com PERKINS COIE LLP 1620 26th Street Sixth Floor, South Tower Santa Monica, CA 90404 PHONE: 310.788.3224 FAX: 310.843.1250 Attorneys for Defendant Rocky Mountain Chocolate Factory, Inc.	
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8	UNITED STATES DISTRICT COURT	
9	SOUTHERN DISTRICT OF CALIFORNIA	
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11	SDMS, IND., THOMAS P. ANDERSON, and KEN PECUS,	Case No. 08CV833 (JM) (AJB)
12	Plaintiff,	DECLARATION OF LEONARD MACPHEE IN SUPPORT OF DEFENDANT'S EX PARTE APPLICATION FOR ORDER EXTENDING TIME TO PLEAD
13	v.	
14	ROCKY MOUNTAIN CHOCOLATE	
15	FACTORY, INC.,	
16	Defendant.	
17		
18	I, Leonard H. MacPhee, hereby declare as follows:	
19	1. I am an attorney in good standing in the State of Colorado, and hold the title of	
20	Partner in the Denver office of the law firm of Perkins Coie LLP.	
21	2. Perkins Coie LLP is counsel for Defendant, Rocky Mountain Chocolate Factory,	
22	Inc., and has recently been retained to represent it in the above-captioned action.	
23	3. I have conferred with Plaintiffs' counsel regarding the requested extension of time	
24	to respond to the First Amended Complaint, and counsel for Plaintiffs has consented to an	
25	extension of time up to and including June 24, 2008.	
26	4. According to Plaintiffs' counsel, the summons was served on RMCF's registered	
27	agent on May 21, 2008. RMCF's response to the First Amended Complaint is therefore currently	
28	due on June 10, 2008.	
	57023-0418/LEGAL14350021.1	DECL. OF LEONARD H. MACPHEE 08CV833 (JM) (AJB)

- 5. However, I learned that Plaintiffs had served RMCF's registered agent with the First Amended Complaint on June 2, 2008. We are investigating and researching the claims set forth in the First Amended Complaint, and due to conflicts in schedules, require an additional two weeks to do so and to prepare the response.
- 6. I have informed counsel for Plaintiffs that RMCF is moving this week for this extension of time to respond to the First Amended Complaint.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on this 6th day of June 2008 at Denver, Colorado.

LEONARD H. MACPHEE